IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

LEE ROY BOYD,	Petitioner,))) No. 76-ck-443	المادة
UNITED STATES OF AMERICA,	Respondent.))	76 G

ORDER

The Court has for consideration a motion pursuant to 28 U.S.C. S 2255 filed pro se, in forma pauperis by Lee Roy Boyd. He is a prisoner in the Federal Correctional Institution, El Reno, Oklahoma, pursuant to his plea of guilty to this Court entered May 19, 1964, in case No. 14064, to an indictment charging a Dyer Act in Count One and possession of an illegal firearm in Count Two. The sentence was to five years on each Count, concurrently, to run consecutively to the sentence then being served in the State of Oklahoma, and eligible for parole as the Parole Board should determine as provided in 18 U.S.C. \$ 4208(a)(2). This is Petitioner's second \$ 2255 motion to this Court, the previous one, case No. 72-C-331, having been denied by Order of this Court dated and filed February 23, 1973.

As grounds for his present motion, the Petitioner asserts that the prosecuting attorney recommended that he receive a five year sentence on each count to run concurrently and concurrently with an intervening State of Oklahoma sentence, and that the District Judge who took his plea agreed to such plea bargain, but the agreed sentence was not imposed because he was sentenced by a different Judge. The allegation is totally without merit as supported by the transcript and this Court's sure knowledge of the proceedings.

Although it is true that I accepted the plea and the sentence was imposed by another Judge, there was no such sentence as claimed by the petitioner recommended by the Government, and most assuredly this Court did not participate in any plea bargaining nor agree to such sentence as clearly supported by the record which forecloses the necessity for a hearing herein.

The Defendant Boyd when he entered his plea of guilty was before the Court on his motion to suppress evidence, and defense counsel admitted in open Court that his investigation had proved that the motion could not be well taken, withdrew his motion with Defendant Boyd's agreement of record, and a plea of guilty was entered. The prosecuting attorney, as appears at page 3 of the transcript, asked the Defendant:

"You have been advised that the maximum punishment on Count 1 would be a fine of \$5,000 and five years imprisonment? And that the maximum punishment on Count 2 would be a fine of \$2,000 and five years imprisonment?"

Defendant Boyd's answer was, "Yes, sir."

This Court also asked, as appears at page 8 of the transcript:

"Mr. Boyd, . . . do you understand on a plea of guilty to these two counts the Court can sentence you to as much as ten years and fine you \$7,000?"

Again, Defendant Boyd's answer was, "Yes, sir."

The defense counsel requested immediate sentencing without waiting for a pre-sentence report and informed the Court that the Defendant Boyd was given a ten-year sentence suspended in Texas for burglary, had received an eighteen-year sentence as a result of a high-jacking at Ponca City, which would run consecutive to the sentence to be revoked in Texas.

". . . I would like to ask at this time that Your Honor sentence both defendants to the maximum term as provided for by law, and let that sentence run concurrently with the eighteen years received up in Ponca City, the State charge. . . . I might add one more thing, Your Honor: . . . there were possibly one or two other high-jackings on the way up here from Texas."

The Court asked: "What assurance do you have that you have all the record, . . .? To which question defense counsel deferred to the prosecuting attorney who informed the Court that they (Defendant Boyd and his co-defendant) committed two burglaries in Texas, stole a gun, stole a car which they brought to Oklahoma, committed armed robbery of a filling station at Ada, committed another armed robbery in Kay County, were arrested in Bartlesville and taken back to Kay County, escaped and were apprehended in another state, then returned to Kay County where they each received an eighteen year sentence. Thereafter, the Court stated, as appears at page 8 of the transcript:

"I believe a pre-sentence report would not be mitigating in its findings; nevertheless I find it very beneficial to know. So the Court will have them report to the Probation Officer for a pre-sentence report; and we will set sentence for June 2nd at 9:30 in the morning."

The Court finds that the § 2255 motion is without merit and should be overruled.

IT IS, THEREFORE, ORDERED that the motion pursuant to 28 U.S.C. § 2255 of Lee Roy Boyd be and it is hereby overruled, denied, and the case is dismissed.

Dated this 300 day of December, 1976, at Tulsa, Oklahoma.

CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

United States of	America vs.	J	Jnited S	tates or distric			urt fo
DEFENDANT	HARRY L. FITEGERALD			NO.	<u> </u>		
	JUDGMENT AND	O PROBATIO	N/COMM	ITMEN	T ORD	ER AO	-245 (6/74)
	In the presence of the attorney for the defendant appeared in person				12	DAY 21	YEAR 76
COUNSEL	>	However the court advise have counsel appointed by t	he court and the def	t to counsel a endant thereupo of counsel)	and asked whe	ther defendan ance of counse	t desired to
PLEA	GUILTY, and the court bei there is a factual basis for t		X NOLO CON	TENDERE,	NO	T GUILTY	
	There being a finding/vandlet of	NOT GUILTY.	Y. Defendant is d	scharged			
FINDING & JUDGMENT	Defendant has been convicted as Sections (a) (a) (2) and						n.
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	The court asked whether defendant	The second secon				and the second wife And the second wife of the second wife of the second with the second with the second wife of the second with the second wife of the second with the secon	t w
SENTENCE OR PROBATION ORDER	Counts 1 and 2 - The i is placed on unsuperwi run concurrently with	ded probation for					
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CONDITIONS OF PROBATION			•.		i sa katawa		
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PROBATION	The court orders commitment to	uring the probation period.				;	
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SIGNED BY	and the second s				THIS DATE	12-21-	76
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		D	ate 12-21-	/6		() DEPUTY

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nited States of	America vs. United States I			rt for
DEFENDANT	ROBERT S. TRIPPET			
	JUDGMENT AND PROBATION/COMMITMENT	ORDE	R AO-24	15 (6/74)
	In the presence of the attorney for the government the defendant appeared in person on this date	MONTH	DAY 21	YEAR 76
COUNSEL	WITHOUT COUNSEL However the court advised defendant of right to counsel an have counsel appointed by the court and the defendant thereupon	d asked wheth waived assistan	er defendant (nce of counsel.	desired to
	X WITH COUNSEL Pat Mailey and James Lang, Retained (Name of counsel)	·		
PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,	LL NOT	GUIZAY	
	There being a finding/endiet of \[\begin{align*} \to NOT GUILTY. Defendant is discharged \\ \to X \to GUILTY. \end{align*}			
FINDING &	Defendant has been convicted as charged of the offense(s) of having violated Tit 371 and 1341, as charged in Counts one thru ten of the indic	tle 18, U.	S.C. Sect	tions
JUDGMENT	y mang kanagang kanagang berandan di manggalan pengalangan di mengalangan di mengalangan di mengalangan berand Manggalangan di mengalangan di mengalangan di mengalangan di mengalangan di mengalangan di mengalangan di meng Manggalangan di mengalangan di mengalangan di mengalangan di mengalangan di mengalangan di mengalangan di men			3
e e e	- Andrew Community (Medical Community Community Community Community Community Community Community Community Co - Andrew Community Co - Andrew Community Co		2018年18日 2 38日 201 年日 2018	:
OR PROBATION ORDER SPECIAL CONDITIONS OF PROBATION	Treasury, and FURTHER ORDERED to pay to Trustee in Home-STail \$100,000. within 90 days from this date. Payment to the trustee, first, for the benefit of widows, orphans or child second, the balance, if any, for destitute participants who trustee within I year showing proof of actual loss from the The trustee may pay these claims in his discretion, and if as to validity of a claim, appeal will lie to the reorganizal year from this date, the balance of the funds will be paid from civil cases pending in this Court, on a pro rate basis show proof of actual loss on their Home-Stake investment. Shall not include the sophisticated and knowledgeable investinvestors who had the advice of investment advisers, CPAs or shall be computed so as not to include any amounts saved by result of income tax benefits received. If there are no sur of funds will be refunded to the defendant. IT IS FURTHER ADJUDGED that the defendant is to report to the every three (3) months.	ke bankrujustee sha red of par file a c ir Home-S there is ation Judg d on appro- to partic This group tor, head r stockbro the claims he probat	tey proceed by help the later with lake investing the later with l	sedings i by i; the itment. reement i, afte ms, ho ments oration ny loss a since
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- -	Date 19_91_94		(W	DEPUTY

V.

United States of					urt fo
DEFENDANT	FRANK E. SIMS	<u>-</u>	76-CR-23-E		
	JUDGMENT AND PROBATION/COMMI	IIVIEN			245 (6/74)
	In the presence of the attorney for the government the defendant appeared in person on this date	—	12	21	76
COUNSEL	WITHOUT COUNSEL However the court advised defendant of right have counsel appointed by the court and the defer X WITH COUNSEL ITV INE Ungersian and John Robert (Name of	ndant thereup	oon waived assistat En	nce of couns	el.
PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,			C 2 19	176
	There being a finding predict of \{ L	scharged			·
FINDING &	Defendant has been convicted as charged of the offense(s) of having vi 371 and 1341, as charged in Counts one thru ten of	olated T	lictment.	.S.C. S e	ctions
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SENTENCE OR PROBATION ORDER SPECIAL CONDITIONS OF PROBATION	Counts 1 thru 10 - The imposition of sentence is he is placed on probation for a period of One (1) year concurrently with count 1. The special condition of probation is that the definemental behalf by trustee first, for the or children of participants; second, for destitute with the trustee within one (1) year showing proof Stake investment. The trustee may pay these claim there is any disagreement as to validity of a claim reorganization Judge. Third, after one (1) year funds will be paid on approved claims, from civil pro rate basis to participants who show proof of a investments. This group of claiments shell not in knowledgeable investor, heads of corporations, impinvestment advisers, CPAs or stockbrokers. Any is include any amounts saved by the claiments as a received. If there are no such claims, the balance to the defendant.	fendant programmer, country wight in benefit in his impossion this cases programmer to be stored to be stored to be suit of the country of the country was shall be suit of the country was shall be s	cay to the (8) months of widows ipants who had less from the income tax and will be computed to the computer of the computer o	trustee from the file a common their om their om their om the balance his Coun r Ngment cated ac advice ad so ac benefit returne	in the is date. Is date. Is date. Is date. Is date. Is date. Is of the rt, on a stake of the rt to t
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COMMITMENT RECOMMEN- DATION	The court orders commitment to the custody of the Attorney General and a	recommend	It is ordere a certified and comm	d that the Cl copy of this itment to the er qualified o	s judgment e U.S. Mar-
SIGNED BY			CERTIFIED		2 /
Ŭ.S. Distr	rict Judge		THIS DATE	12-21 11/10	în (N
U.S. Magi	istrate		By	<i></i> 000) CUERK
	Date 12-21-7(6		(Y DEPUTY

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
Plaintiff,)	
vs.)	No. 76-CR-78 17 1
JOHN PAUL LONG, et al.,)	
Defendants.	.)	10.0 pm
		U. S. Pletable Coult
	ORD	ER CONT

ORDER

The Court has before it for consideration a Motion for New Trial filed by the defendant John Paul Long. The Court has carefully considered said Motion and the Brief in support thereof, along with the law applicable to the issues raised therein and makes the following determination in regard to said Motion.

Defendant asserts in his Motion that the United States failed to prove the Indictment against him in its entirety and that the verdict is contrary to the weight of the evidence and not supported by substantial evidence. In addition thereto, defendant asserts that the Court erred in denying his Motion for Acquittal offered at the conclusion of the Government's evidence. Although defendant Long acknowledges that he was found in possession of certain counterfeit obligations of the United States, he contends the Government failed to prove he was a part of the conspiracy as alleged.

A conspiracy is an agreement between two or more persons to commit one or more unlawful acts, and is complete when one or more of the conspirators knowingly commit an act in furtherance of the object of the conspiracy. Braverman v. United States, 317 U.S. 49, 53, 63 S.Ct. 99, 87 L.Ed. 23 (1942); Goldsmith v. Cheney, 447 F.2d 624 (10th Cir. 1971); Jordan v. United States, 370 F.2d 126 (10th Cir. 1966), cert. denied 386 U.S. 1033, 87 S.Ct. 1484, 18 L.Ed.2d 595 (1967). The agreement need not be express, nor in any particular form. It is sufficient "if the minds of the parties meet and unite in an understanding way with the single design to accomplish a common purpose. . ." Martin v. United States, 100 F.2d 490, 495 (10th Cir. 1938). "The proof necessary to support a conviction for conspiracy is necessarily not direct. The nature of the offense and the secrecy involved require that the elements of the crime be established by circumstantial evidence, and the common purpose or plan may be inferred from the development or the combination of circumstances." Jordan, supra, 370 F.2d at 128. See also Glasser v. United States, 315 U.S. 60, 62 S.Ct. 457, 86 L.Ed. 680 (1942); Baker v. United States, 329 F.2d 786 (10th Cir. 1964) cert. denied, 379 U.S. 853, 85 S.Ct. 101, 13 L.Ed.2d 56 (1964); Dennis v. United States, 302 F.2d 5 (10th Cir. 1962), In addition, convictions will generally be sustained "if the circumstances, acts and conduct of the parties are of such character that the minds of reasonable men may conclude therefrom that an unlawful agreement exists." Jones v. United States, 365 F.2d 87, 89 (10th Cir. 1966). See also United States v. Birmingham, 454 F.2d 706 (10th Cir. 1971); United States v. Winn, 411 F.2d 415 (10th Cir. 1969), cert. denied, 396 U.S. 919, 90 S.Ct. 245, 24 L.Ed.2d 198 (1969); O'Neal v. United States, 240 F.2d 700 (10th Cir. 1957).

The indictment in this case alleged that John Long, along with other named co-conspirators, did willfully and knowingly combine, conspire, confederate and agree together to manufacture, possess, sell, transfer, conceal and utter counterfeit obligations of the United States.

Evidence was presented at trial to the effect that Roger
Ray Vaughan initiated a scheme to counterfeit money. In January
of 1976, he discussed his plan with defendants Jimmy Carroll Dick

and Robert Lee Dick, Jr., who subsequently agreed to partially finance the operation. Mr. Vaughan thereafter discussed the printing of the counterfeit obligations with Richard Arlin Brown in California. Thereafter initial steps were taken to produce the obligations. Mr. Vaughan then inquired of John Long whether he would be interested in helping Vaughan finance the operation or in buying any counterfeit money. The evidence indicated John Long agreed to buy \$20,000.00 worth of the counterfeit obligations and Vaughan related this information to Jimmy Dick. Furthermore, Vaughan told Long he was going to California to have the money printed. It appears from the evidence at trial that John Long was the only defendant who actually purchased any of the counterfeit obligations for distribution, and was in fact later apprehended in the State of Missouri after he attempted to pass some of them.

As stated, the Indictment charges a conspiracy to manufacture, possess, transfer and utter counterfeit money. It is apparent that in order to successfully accomplish the illegal objectives of a counterfeiting conspiracy, not only must a means of manufacture be established, but also a means of transferring or uttering the counterfeit money must be established. The evidence clearly indicates that John Long aided the conspirators in accomplishing the illegal objective of transferring and uttering the counterfeit obligations. As stated in McManaman v. United States, 327 F.2d 21 (10th Cir. 1964):

"It is not essential that each conspirator participate in all the activities

ator participate in all the activities of the conspirators in furtherance of the conspiracy or have knowledge of such activities. It is sufficient if the conspiracy is established and that the convicted persons knowingly contributed their efforts in furtherance of it."

Furthermore, a party may join a conspiracy during its progress and be held responsible for all acts in furtherance of the scheme. United States v. Thomas, 468 F.2d 422 (10th Cir. 1972).

A single act may be the foundation for drawing the actor within the ambit of a conspiracy if the act is such that one may reasonably infer from it an intent to participate in the unlawful enterprise. United States v. Thomas, supra.

In considering a motion for new trial based upon the sufficiency of the evidence, the evidence must be considered in the light most favorable to the prosecution. <u>United States</u> v.

<u>Gleeson</u>, 411 F.2d 1091 (10th Cir. 1969). Applying this criteria to the case at bar, it is the determination of the Court that the Motion for New Trial filed by John Long should be and hereby is overruled.

It is so Ordered this ______ day of December, 1976.

H. DALE COOK

United States District Judge

United States of	America vs.	United State	es Distri District of		
DEFENDANT	FLOYD AUGUST DAV	is	75-CR-		
	JUDGMENT AN	D PROBATION/COMMITM			245 (6/74)
	In the presence of the attorney the defendant appeared in perso		MONTH 12	DAY 21	YEAR 76
COUNSEL	WITHOUT COUNSEL	However the court advised defendant of right to couhave counsel appointed by the court and the defendant the Robert G. Brown (Name of couns	unsel and asked whe nereupon waived assist	ther defendant ance of counse	t desired to
PLEA	_X GUILTY, and the court b there is a factual basis for	eing satisfied that NOLO CONTENDE the plea,	RE, SONO	ΤζΟυΙΤΥ	
	There being a finding/ <u>verdict</u> of	NOT GUILTY. Defendant is discharge.	d 0€C 2∶	1 1976	
FINDING & JUDGMENT	Defendant has been convicted a	s charged of the offense(s) of having violation 2113(d), as charged in the In	atel I. 18,	ior, Clurk C uasic t	•
SENTENCE OR PROBATION ORDER	was shown, or appeared to the conhereby committed to the custody of Count One - F: Count Three -	Twenty (20) Years ER ORDERED that the sentence t the expiration of and run co	nd convicted and ord imprisonment for a p	ered that: The eriod of	defendant is
SPECIAL CONDITIONS		and some some second of the se			
OF PROBATION					
ADDITIONAL CONDITIONS OF PROBATION	reverse side of this indement he im	is of probation imposed above, it is hereby ordered that posed. The Court may change the conditions of probation od or within a maximum probation period of five years of	reduce or extend the	of probation s period of prob y issue a warrar	pation, and at
COMMITMENT RECOMMEN- DATION	The court orders commitment	to the custody of the Attorney General and recomm	It is order a certified and comm	red that the Cle d copy of this nitment to the her qualified of	judgment U.S. Mar-
SIGNED BY	r.,		CERTIFIE	O AS A TRUE	COPY ON
U.S. Distric			THIS DATE		
		Date		•) CLERK) DEPUTY

ited States of	America vs.		District Court for
EFENDANT	FRED RAY HANSEN	DOCKET NO. > [76-CR-82
	JUDGMENT AND PROBA	TION/COMMITMEN	IT ORDER AO 245 (6/74)
	In the presence of the attorney for the government the defendant appeared in person on this date ——		12 21 76
COUNSEL	WITHOUT COUNSEL However the court have counsel appoin	advised defendant of right to counsel sted by the court and the defendant thereup Robert G. Brown (Name of counsel)	
PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,	LI NOLO CONTENDERE,	LX NOT GUILTY DEC 21 1976
	There being a finding/verdict of \(\sum_{\text{\LL}} \) GUIL		
FINDING &	Defendant has been convicted as charged of the or Sections 841 A-1 and 846, a	ffense(s) of having violat is charged in the Indi	etment.
SENTENCE OR PROBATION ORDER	The court asked whether defendant had anything to sa was shown, or appeared to the court, the court adjudg hereby committed to the custody of the Attorney General Table 1. The special parole term of Three of the sentence imposed here	ral or his authorized representative for important the defendant 1s the (3) Years	risonment for a period of
	IT IS FURTHER ORDERED & for parole at such time as as provided in T. 18, U.S.C	the U. S. Parole Comm	ITESION MEA GECETHING
SPECIAL CONDITIONS	. · · · · · · · · · · · · · · · · · · ·		
OF PROBATION			
ADDITIONAL CONDITIONS OF PROBATION	In addition to the special conditions of probation impreverse side of this judgment be imposed. The Court many time during the probation period or within a max probation for a violation occurring during the probation	diay change the conditions of probation, red dimum probation period of five years perm	
COMMITMENT	The court orders commitment to the custody of	the Attorney General and recommend	it is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Mar-
RECOMMEN- DATION			shal or other qualified officer.
SIGNED BY	crict Judge	<i>}</i>	THIS DATE
U.S. Mag	pistrate /	Date 12-21-76	By () CLERK () DEPUTY

United States of	America vs.	nited States NORTHERN DIS		
DEFENDANT	PAUL ELMER KENNEDY, JR.	DOCKET NO.	76-CR-82	
	JUDGMENT AND PROBATION	/COMMITMEN	T ORDER	дО-245 (6/74
	In the presence of the attorney for the government the defendant appeared in person on this date		12 2	1 76
COUNSEL	have counsel appointed by the	defendant of right to counsel court and the defendant thereus (Name of counsel)	oon waived assistance of	fendant desired toounsel.
PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,	,		
	There being a finding/valid of Suilty.	Defendant is discharged	DEC 21 18	
FINDING &	Defendant has been convicted as charged of the offense(s) of Section 841 A-1 and 846, as charge	having violate	d T. 21, U.	Clay Sec.
SENTENCE OR PROBATION ORDER	IT IS FURTHER RECOMMENDED the this defendant for early parole is that it warrants that considerate IT IS FURTHER ORDERED that the until January 3, 1977, at 9:00 a.	if his term of colon. The execution of a man, at which time.	onfinement i sentence is	s such
SPECIAL CONDITIONS	shall report to the U. S. Mershal			
OF PROBATION				
ADDITIONAL CONDITIONS OF PROBATION	In addition to the special conditions of probation imposed above, reverse side of this judgment be imposed. The Court may change the any time during the probation period or within a maximum probation for a violation occurring during the probation period.	ne conditions of probation, redu-	ce or extend the period	of probation, and
(The court orders commitment to the custody of the Attorn	ey General and recommends	It is ordered that	the Clerk deliver
COMMITMENT RECOMMEN- DATION			a certified copy and commitment shal or other qual	of this judgment to the U.S. Mar-
IGNED BY	·		CERTIFIED AS A	TRUE COPY ON
U.S. Distric			THIS DATE	
	Date	12-21-76	1	() CLERK () DEPUTY

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FILED

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk U. S. DISTRICT COURT &

UNITED STATES OF AMERICA,

Plaintiff,

76-CR-123-13

NO.

JACKIE LEE SCOTT, et al.,

Defendants.

ORDER

The Court has for consideration a motion filed by counsel on behalf of the Defendant, Jackie Lee Scott, seeking discretionary modification of sentence pursuant to Rule 35, Federal Rules of Criminal Procedure.

After review of the motion, study of the file, and reflection, and being fully advised in the premises, the Court finds that the motion for modification of sentence should be sustained.

IT IS, THEREFORE, ORDERED that the Judgment and Commitment Order entered herein on November 3, 1976, be and it is hereby modified to the sentence as follows:

The Defendant, Jackie Lee Scott, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of:

Count One--Two (2) months.

Count Two--The imposition of sentence is suspended and the Defendant is placed on probation for a period of three (3) years to commence at the expiration of the sentence in Count One.

It is the intent of this Order modifying sentence that the Defendant, Jackie Lee Scott, be released from jail-type confinement on January 2, 1977.

Dated this 20th day of December, 1976, at Tulsa, Oklahoma.

CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

United States of	`			urt fo
DEFENDANT	MICHAEL McLENCRE	ICT OF OKLA	HOMA	
	DOCKET NO. → L	76-CR-64-	В	
	JUDGMENT AND PROBATION/COMMITME	NT ORD	E R AO	245 (6/74)
	In the presence of the attorney for the government the defendant appeared in person on this date	MONTH 12	16	YEAR
COUNSEL	WITHOUT COUNSEL However the court advised defendant of right to counsel have counsel appointed by the court and the defendant thereu			
	X WITH COUNSEL John Klends & Joseph Abraham, Bet (Name of counsel)			
PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,	L X NO	r Guilty	
	There being a finding/section of Sullty. Defendant is discharged LX GUILTY.			
FINDING &	Defendant has been convicted as charged of the offense(s) of having violated T Section 841(a)(1), as charged in the indictment.	itle 21, U.	.s.c.,	. ,
JUDGMENT				
	The court asked whether defendant had anything to say why judgment should not be pronounced was shown, or appeared to the court, the court adjudged the defendant guilty as charged and co	. Because no suffi	cient cause to t	the contrary
	hereby committed to the custody of the Attorney General or his authorized representative for impr Treatment and supervision until discharged by the Adult You	isonment for a pe	riod of	referiuant i
SENTENCE	as proceeded by T. 18, U.S.C., Section 4216:5810(b).			. .
OR PROBATION ORDER	IT IS RETHER ADRECED that execution of sentence be deferred 1977, at 10:00 A.M., at which time defendant is to present U. S. Marshal.	ed until Ja himself to	the	* .
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SPECIAL CONDITIONS OF		DEC	1 6 1976	
PROBATION		Jack C. U. S. Di	. Silver, Cla STRICT CO	erk Dot
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		*		
ADDITIONAL CONDITIONS OF PROBATION	In addition to the special conditions of probation imposed above, it is hereby ordered that the geneverse side of this judgment be imposed. The Court may change the conditions of probation, reducing time during the probation period or within a maximum probation period of five years permit probation for a violation occurring during the probation period.	ce or extend the n	eriod of probai issue a warrant	tion and at
	The court orders commitment to the custody of the Attorney General and recommends	,		
COMMITMENT RECOMMEN- DATION		a certified and commi	I that the Clerk copy of this ju tment to the U r qualified offi	udgment I.S. Mar-
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SIGNED BY	ict Judge	THIS DATE_		· •
L district	**** P] By		
	Date 12-16-76	ı	•	CLERK DEPUTY

ited States of A	America vs.					
EFENDANT	L	the MORTH	DE DEST	NICT of	OKLAHON	<u> </u>
	Susah M. Esskan Preme L	DOCKET NO.	> L	76-CR-1	3-1	
	JUDGMENT AND PROBATION	N,'	•••	ORD	E R AC	245 (6/7
	In the presence of the attorney for the government the defendant appeared in person on this date	<u>'</u>	—	MONTH	DAY	YEA 76
COUNSEL	WITHOUT COUNSEL However the court advise have counsel appointed by	ed defendant of right to the court and the defendan	counsel an t thereupon	d asked whe waived assist	her defenda ance of coun	nt desired sel.
	WITH COUNSEL COMMENT AND ADDRESS OF THE COUNSEL	Jr. (Appoints (Name of co		Hettac	/_ =	
PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,	NOLO CONTEN	DERÉ,	NO	T GUILTY	
	There being a finding/verdict of \{ \begin{align*}	「Y. Defendant is discha	rged		C. Silver,	•
				U. S. I	DISTRICT	COURT
INDING &	Defendant has been convicted as charged of the offense in Count 15 of the Indictment; having 16 of the Indictment; and having vio	g violated T. 18	, Secti	oms 2 &	2314 in	Count
	Indictmet.					ξ
J			•			*
%9 R }	The court asked whether defendant had anything to say why was shown, or appeared to the court, the court adjudged the court and	defendant guilty as charge insultation in Sungille Sungille Cours as to each are to run concur	d and conv facility maded and count y	d the De	ered that: H reinderk femdant to T. 18	
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SENTENCE *9R PROBATION ORDER SPECIAL CONDITIONS OF	was shown, or appeared to the court, the court adjudged the management of the court adjudged the management of the court o	defendant guilty as charge imministrative as the Sumple learns as the Sach large to run dondum his date.	d and convincement of the country country	med \$16	fundant to T. 18 nt 15.	19: 19: 19: 19: 19: 19: 19: 19: 19: 19:
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United States of	America vs.	Ţ	Inited Stutes			rt fo
DEFENDANT	DUANE RICHARD SCHOOL		DOCKET NO.		_ _ _ _	;
		NO DOCEMENT				
			N/COMMITMEN	II ORDE		45 (6/74)
	In the presence of the attorney the defendant appeared in per-			12	16	YEAR 76
COUNSEL	without counsel	have counsel appointed by t	d defendant of right to counsel he court and the defendant thereup	and asked wheth on waived assista	ner defendant once of counsel.	desired to
		lack Sellers, Ret.	(Name of counsel)		700	
PLEA	GUILTY, and the court there is a factual basis fo	•	X_I NOLO CONTENDERE,	LNOT	GUILTY 1976	
	There being a finding/verdict	of { L NOT GUILT'	Y. Defendant is discharged		C. Silver, Clo ISTRICT CO	
FINDING & JUDGMENT (Defendant has been convicted Section 656, as cha	d as charged of the offense(s orgad in Counts one	of having violated T and two of the Infor	itle 18, U. untion.	.s.c.,	
SENTENCE OR PROBATION ORDER	was shown, or appeared to the chereby committed to the custody Cts. 1 and 2 - Trees be confined in a jacommution of the re and the defendant is to run concurrently	court, the court adjudged the court of the Attorney General or his aty-five (MA) months ill type institution mainder of the semils placed on probat with Count 1.	dgment should not be pronounced. defendant guilty as charged and consultative for imprise and on the condition for a period of One tence of imprisonment ion for twenty-four () tion of sentence is a fendant is to present	on that the (1) month is hereby (24) months.	defender the suspender Count 2	efendant L
SPECIAL	,			•••		
CONDITIONS OF				: .		
PROBATION						
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ADDITIONAL				the state of the s		
CONDITIONS OF PROBATION	reverse side of this judgment he	imposed. The Court may chang period or within a maximum pr	ve, it is hereby ordered that the ge e the conditions of probation, redu obation period of five years permit	ce or extend the i	eriod of probati issue a warrant	tion, and a
			orney General and recommends			
COMMITMENT RECOMMEN- DATION	Halfimy House, Okla	thoma City, Uklaham	institution.	a certified and comm	d that the Clerk copy of this ju itment to the U er qualified offi	dgment .S. Mar-
				CERTIFIED	AS A TRUE CO	DPY ON
SIGNED BY	ict Judge			THIS DATE		
U.S. Magis	strate		ate 12-16-76] Ву		CLERK DEPUTY
				4	() (T

DEC 1 5 1976 6

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver Clerk, U. S. District Court

UNITED STATES OF AMERICA,

Plaintiff,) NO. 76-CR-23 8

ROBERT S. TRIPPET, et al.,

Defendants.

ORDER

The Court has under advisement, at the close of all of the evidence, the motion for acquittal of the Defendant, Norman C. Cross, Jr. Pursuant to its duty, the Court has reviewed all of the evidence in the light most favorable to the Government, with full recognition of the right of the jury to determine credibility, weight of the evidence, and to draw justifiable inferences of fact. From this review of the evidence, the Court is now faced with the responsibility of making the determination of whether there is substantial evidence from which the jury could properly find or infer, beyond a reasonable doubt, that the Defendant on trial is guilty of the crimes charged in this indictment.

Evidence to be substantial must do more than merely raise a suspicion of the existence of facts sought to be proved; there must be more established than mere suspicion of guilt. A conviction cannot be based upon evidence which is consistent with both innocence and guilt. The Court finds that the Government's evidence is equally strong to infer innocence of the crimes charged as it is to infer guilt, and there has been no finger of guilt pointed at the Defendant, Norman C. Cross, Jr., by the evidence before this Court. Therefore, this Court has the duty to direct an acquittal.

The Court, during the many weeks of this trial, has had ample opportunity to observe this jury, and from that observation has concluded that the jurors are attentive, conscientious, and persons of reason.

Therefore, it is concluded by the Court, on review of the evidence, that there would unquestionably be a reasonable doubt in the minds of the jurors as a matter of law which precludes submission of this case to them.

This Order is in no way a reflection on the abilities and preparation of the prosecution team before this Court. They did not create the facts, yet they have been assigned the task of prosecuting this complex

and complicated case. They have inherited the burden of representing the United States in this trial following the maze of Agency investigations, grand juries, arraignments, transfers and retransfers, appeals, two indictments prior to this indictment, and numerous pre-trial motions, all of which have been complicated by the Speedy Trial Act, which Act was passed although opposed by all investigatory and prosecutorial bodies, as well as by lawyers and their defendant clients, and yes, the Courts as well. You as attorneys for the Government have the Court's commendation for your efforts, decorum and ethical conduct in the trial of this case. Further, the Court desires to note that the Defendant has been represented by his most able counsel who properly exercised every defense and pleading available for the protection of the accused. The Defendant could not have been better represented. We must all recall our principle of law that all defendants are considered innocent until proved guilty beyond a reasonable doubt, and that protection abides with them at all times during the trial.

The decision herein is rendered after much study, review of the record, the exhibits, the stipulations, and all other pertinent evidence before the Court. The Court cannot in good conscience, under the law, delegate its responsibility by following the path of least resistance by submitting the case to the jury. The Court does not doubt that the jury would be equally motivated by the evidence to absolve the Defendant of blame and find him not guilty of the ten counts in the indictment. However, all defendants in this Federal Court enjoy the protection against submission of any case to a jury when the evidence does not warrant such action. The legal duty, and the responsibility to perform that duty, prevents casting the burden of a verdict upon the jury and protracting the unknown agony which the Defendant must have necessarily suffered in what must seem an unbearable experience of almost four years of investigatory, accusatory, and prosecutorial stages.

IT IS, THEREFORE, ORDERED that the motion made at the close of all of the evidence to acquit the Defendant, Norman C. Cross, Jr., of all ten counts of the indictment should be and it is hereby sustained. The

Defendant, Norman C. Cross, Jr., is hereby acquitted of all ten counts of the indictment. All other pending motions and offers of exhibits are hereby overruled as moot. The bond is exonerated and the Defendant is free to depart forthwith.

Done in open Court this 15th day of December, 1976, at Tulsa, Oklahoma.

> UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

United States of	America vs.	United St		istrict C	
DEFENDANT	BILLIE HARL BURR	KIL			
			o. ➤ ∟<u>76</u>		
	JUDGMENT AN	ID PROBATION/COMMI	TMENT	ORDER	AO 245 (6/74)
	In the presence of the attorney the defendant appeared in perso			12 8	YEAR 76
COUNSEL	WITHOUT COUNSEL WITH COUNSEL L	However the court advised defendant of right that have counsel appointed by the court and the defendance of the court advised defendant of right to the court and the defendance of the court advised by the court and the court advised by	ant thereupon w	aived assistance of co	
PLEA	GUILTY, and the court be there is a factual basis for	peing satisfied that NOLO CONTE		ND€Gu8LT	M976
	There being a finding/	f NOT GUILTY. Defendant is disch	nar ged	tok killing Unit killing	er Mode 1 Konfi
FINDING & JUDGMENT		as charged of the offense(s) of having value charged in the Indictment		. 26, U.S.	C.,
SENTENCE OR PROBATION ORDER	is placed on prob	n of sentence is hereby su ation for a period of Three	and one	-half (34)	Years
SPECIAL CONDITIONS				e de	
OF PROBATION					
			. •		
ADDITIONAL CONDITIONS OF	reverse side of this judgment be im any time during the probation peri	ns of probation imposed above, it is hereby ordered aposed. The Court may change the conditions of prob	ation, reduce or e	extend the period of p	
PROBATION	probation for a violation occurring	during the probation period.		y iaw, may issue a wa	probation, and
PROBATION COMMITMENT RECOMMEN- DATION			·	It is ordered that the a certified copy of and commitment to shal or other qualifie	Clerk deliver this judgment the U.S. Mar-
COMMITMENT RECOMMEN- DATION		during the probation period.		It is ordered that the a certified copy of and commitment to	Clerk deliver this judgment the U.S. Mar- d officer.
COMMITMENT RECOMMEN-	The court orders commitment	during the probation period.	C I	It is ordered that the a certified copy of and commitment to shal or other qualifie	Clerk deliver this judgment the U.S. Mar- d officer.

3.5

United States of	America vs.	United States	District C TRICT OF OKLA	
DEFENDANT	PHILLIP WAYNE WALKER	DOCKET NO.		
	JUDGMENT AND PROBAT			AQ-245 (6/74)
	In the presence of the attorney for the government the defendant appeared in person on this date		12 8	YEAR 76
COUNSEL	have counsel appointed	advised defendant of right to counseled by the court and the defendant thereup (Name of counsel)	oon waived assistance of cou	lant desired to
PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,	NOLO CONTENDERE,	NOT GUILT DEC 8	^Y 1976
	There being a finding/vardiet of \(\bigcup \lambda \text{NOT G} \\ \bigcup \mathbb{X} \text{ GUILT}	UILTY. Defendant is discharged Y.	g. 3. 9 . E. 3. 9 .	***************************************
FINDING &	Defendant has been convicted as charged of the ofference	ense(s) of having violate Count One of the Ind	ed T. 18, U.S. Nictment.	C.,
SENTENCE OR PROBATION ORDER	The imposition of sent is placed on probation for under the Federal Youth Cor Section 5010(a). IT IS FURTHER ORDERED \$198.20 which has previously transferred to the U. S. Transferred to the U. S.	a period of Two (2) ? rection Act, pursuant that the restitution y been paid to the Co	fears from this to T. 18, U. in the amount ourt Clerk, be	s.G.,
SPECIAL CONDITIONS OF				
PROBATION				
ADDITIONAL CONDITIONS OF PROBATION	In addition to the special conditions of probation impose reverse side of this judgment be imposed. The Court may any time during the probation period or within a maxim probation for a violation occurring during the probation p	change the conditions of probation, redu um probation period of five years permi	ice or extend the period of t	robation, and a
COMMITMENT RECOMMEN- DATION	The court orders commitment to the custody of the	e Attorney General and recommend	It is ordered that the a certified copy of t and commitment to shal or other qualifie	his judgment the U.S. Mar-
SIGNED BY			CERTIFIED AS A TRU	JE COPY ON
U.S. Distri			By	() CLERK
		Date 12-8-76		() DEPUTY

DEFERRANT COUNTY	United States of	America vs. United States	Distric	t Cou	rt fo
In the presence of the attorney for the government the defendant appraised on person on this date that defended the defended that the defended appraised of the court and the defended that the defended attorneys whele destinance of counsel. WHITHOU CONNEL Institute that the court and the defended that	DEFENDANT	>	ISTRICT OF	OKLAHON	<u>ia</u>
In the presence of the attorney for the government the defendant appeared in person on this date			76-CR-140	 	
the defendant appeared in person on this date WITHOUT COUNSEL However the court advised defendant of right to coursel and saked whether defendant deriver to have counted appointed by the court and the defendant thereupon whether destructed counted in the counter of counted in the counter of counted in the counter of counter of the counter of counte		JUDGMENT AND PROBATION/COMMITMEN	NT ORDER	AO 245	5 (6/74)
WITH COUNSEL PRILEY, and the court being suisified that				_	
The court aked whether defendant had anything to say why independ thould not be pronounced. Because no sufficient came to the contract was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is placed on proposition for a period of Two (2) Years from this date, under the Federal Youth Correction the substitute of Two (2) Years from this date, under the Federal Youth Correction has substitute for imprisonment for priod of the Section 5010(a). SPECIAL COMDITIONS OF The court of \$42.50 to the Court of the Court of the U. S. ADDITIONAL COMDITIONS OF The court of \$42.50 to the Court of the Section Section of probation for a section of the Section Sect	COUNSEL	have counsel appointed by the court and the defendant thereu X WITH COUNSEL Phil Frazier, Court Apr	pon waived assistance		esired to
The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contra was shown, or appeared to the court, the court adjudged the defendant guity as charged and convicted convicted and convicted convicted and convicted and convicted and convicted convic	PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,	NOT	ე¦ જાઈ⊡	176
The court asked whether defendant had anything to tay why judgment should not be pronounced. Because no sufficient cause to the contra was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The deformance is barrely suspended and the defendant is placed on probation of sentence is barrely suspended and the defendant is placed on probation for a period of Two (2) Years from this date, under the Federal Youth Contraction Act, pursuant to T. 18, U.S.C., SPECIAL CONDITIONS OF PROBATION The condition of probation is that the defendant make restitution in the amount of \$42.30 to the Court Clerk for payment to the U.S. Treasury, in require mouthly payments beginning in December, 1976, at \$5.00 per mouth until paid in full. ADDITIONAL CONDITIONS OF PROBATION ADDITIONAL CONDITIONS OF PROBATION The court orders commitment be imposed. The Court ray change the conditions of probation, reduce or extend the period of probation, and at reverse side of this judgment be imposed. The Court ray change the conditions of probation, reduce or extend the period of probation, and at reverse side of this judgment is conditions of probation or a violation occurring during the probation period. The court orders commitment to the custody of the Attorney General and recommends, It is ordered that the Clerk deliver a certified copy of this judgment shall or other qualified office. CERTIFIED AS A TRUE COPY ON THIS DATE U.S. District Judge U.S. District Judge 1 U.S. Magistrate		There being a finding/verdist of NOT GUILTY. Defendant is discharged L.X. GUILTY.	u. s.	i e problem Service	Obri Must
was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: Day defendent between constitution of the county of the Attorney General or his substantial processor of the county of the Attorney General or his substantial processor of the county of the Attorney General or his substantial processor of the county of the Cou		Defendant has been convicted as charged of the offense(s) of having violate Sections 371 and 1702, as charged in Count One of	d %. 18, U the Indic	.S.C.,	
was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: Day defendent between constitution of the county of the Attorney General or his substantial processor of the county of the Attorney General or his substantial processor of the county of the Attorney General or his substantial processor of the county of the Cou					
The condition of probation is that the defendant make restitution in the amount of \$42.50 to the Court Clark for payment to the U. S. Treasury, in regular monthly payments beginning in December, 1976, at \$5.00 per month until paid in full. ADDITIONAL CONDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period. The court orders commitment to the custody of the Attorney General and recommends, It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer. CERTIFIED AS A TRUE COPY ON THIS DATE U.S. Magistrate By () CLERK	OR PROBATION	The imposition of sentence is hereby suspende is placed on probation for a period of Two (2) Ye will the Federal Youth Correction Act. pursuant	d and the cars from ti	defenda his det	nt B,
ADDITIONAL CONDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period. The court orders commitment to the custody of the Attorney General and recommends, It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer. SIGNED BY U.S. District, Judge THIS DATE O CLERK	CONDITIONS OF	The condition of probation is that the defend in the amount of \$42.50 to the Court Clerk for pa Treasury, in regular monthly payments beginning i	venue to t	u u s	ion
ADDITIONAL CONDITIONS OF PROBATION In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period. The court orders commitment to the custody of the Attorney General and recommends, It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer. SIGNED BY U.S. District, Judge THIS DATE O CLERK				:	
COMMITMENT RECOMMENDATION Li is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer. CERTIFIED AS A TRUE COPY ON THIS DATE Li U.S. Magistrate By () CLERK	CONDITIONS OF	reverse side of this judgment be imposed. The Court may change the conditions of probation, reduction any time during the probation period or within a maximum probation period of five years permit	neral conditions of pr	obation set ou	a and at
COMMITMENT RECOMMENDATION CERTIFIED AS A TRUE COPY ON SIGNED BY U.S. District Judge THIS DATE By () CLERK	1		i i		
SIGNED BY L	RECOMMEN-		a certified copy and commitme	y of this judgr nt to the U.S.	ment Mar-
U.S. District Judge U.S. Magistrate THIS DATE () CLERK	SIGNED BY		CERTIFIED AS A	N TRUE COPY	ON
() CLERK		t Judge	THIS DATE		- A A
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United States of America vs.

United Staces District Court for

DEFENDANT

	BRUCE ALLEN WHITE	TRICT OF	OKLAHOM	<u> </u>
	WESTMENT AND PROBATION/COMMITMEN	***************************************		45 (6, 74)
	In the presence of the attorney for the government the defendant appeared in person on this date WITHOUT COUNSEL However the court advised defendant of right to counsel	12	1 /	76 desired to
COUNSEL	WITHOUT COUNSEL. However the court advised defendant of right to counsel have counsel appointed by the court and the defendant thereup X WITH COUNSEL Don McCorkell Jr. Counsel)	OII WAITCU MOOISE	4,100 07 104	4
PLEA	GUILTY, and the court being satisfied that there is a factual basis for the plea,	x No	TGULTY E	ф
	There being a finding/matic of NOT GUILTY. Defendant is discharged LX GUILTY.		EC 1 - 197 6 C. Silver, C	
FINDING &	Defendant has been convicted as charged of the offense(s) of having violated Section 1503, as charged in the Indictment.	d т. 48;	De France. Co	OURT
Francisco (m. 1915) Francisco (m. 1915) Francisco (m. 1915)	It is the finding of the Court that the defen- 20 years, subject to the Iguth Correction Act, as finding of the Court shot the defendant would no benefit from the world the Correction Act, and is the under the applicable statute.	nd it is	the fur	ther
A Section 1	The court asked whether defendant had anything to say why fungment should not be pronounced. was shown, or appeared to the court, the court adjudged the defendant guilty as charged and concerns committed to the custody of the Attorney Court or his authorized representative for impris	Because no suff	icient cause to the	e contrary
SENTENCE OR PROBATION ORDER	The imposition of sentence is hereby deferred is placed on probation for a period of Two (2) Yes and run consecutive to service of sentence hereto 76-CR-80.	and the	defenda	afte.
SPECIAL	vol. 1 to the — publication on the state.		· · · · · · · · · · · · · · · · · · ·	
CONDITIONS OF	e Security	4 °		
PROBATION		4.	÷	
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		: *	. 3	
ADDITIONAL CONDITIONS OF PROBATION	In addition to the special conditions of probation imposed above, it is hereby ordered that the genereverse side of this judgment be imposed. The Court may change the conditions of probation, reduce any time during the probation period or within a maximum probation period of five years permitted probation for a violation occurring during the probation period.	a no autand tha .	of probation set of	
	The court orders commitment to the custody of the Attorney General and recommends,			
COMMITMENT RECOMMEN- DATION	., 9	a certified and commi	d that the Clerk of copy of this jud tment to the U.S or qualified office	gment 6. Mar-
SIGNET		CERTIFIED	AS A TRUE COF	Y ON
SIGNED BY	et dudge a gran	THIS DATE		
U.S. Magis	Atrate Z	8y	(_)cı	ERK

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
Plaintiff,)	
vs.) No. 76-CR-53-C	
DARLENE RAE FOSTER, et al.,)	DEC 1
Defendants.)	

ORDER SUSTAINING MOTION FOR REDUCTION OF SENTENCE

On October 29, 1976, and on November 17, 1976, the Court received requests from the defendant, Darlene Rae Foster, which seek to have the Court review the sentence imposed on this defendant. After a plea of guilty to a violation of Title 21, U.S.C. § 846, this Court on July 23, 1976, sentenced the defendant, Darlene Rae Foster, to two (2) years imprisonment. In addition to said sentence the Court imposed a special parole term of three (3) years. The Court sentenced this defendant under Title 18 U.S.C. § 4205(b)(2) which allows her to become eligible for parole as the United States Parole Commission may determine. On August 20, 1976, the Court overruled defendant's previous motion for a reduction of sentence. On September 23, 1976, the Court overruled defendant's second Motion for Reduction of Sentence.

In treating defendant's third request for a review of her sentence as a Motion for Reduction of Sentence pursuant to Rule 35 of the Fed.R.Crim.P., the Court has again carefully reviewed the entire record as it pertains to this defendant and finds that the sentence imposed as indicated herein should be reduced.

The defendant has timely filed her third Motion for Reduction or Modification of Sentence. Pursuant to Rule 35 of the Fed.R.Crim.P.,

the Court has jurisdiction to consider the Motion if it is filed within 120 days of the date of sentencing. United States v. Stollings, 516 F.2d 1287 (4th Cir. 1975).

IT IS THEREFORE ORDERED that the Judgment and Sentence entered herein on July 23, 1976, be and it is hereby modified to read as follows:

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of eighteen (18) months. In addition to said term of imprisonment, the Court imposes a special parole term of three (3) years.

IT IS FURTHER ORDERED that the defendant may become eligible for parole as the United States Parole Commission may determine pursuant to Title 18 U.S.C. § 4205(b)(2).

It is so Ordered this day of December, 1976.

H. DALE COOK

United States District Judge